

Amendment No. 1 to HB2752

Curtiss
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2935

House Bill No. 2752*

by deleting the first sentence of SECTION 1, § 66-27-202(b), and by substituting instead the following:

The provisions of §§ 66-27-101 through 66-27-123 do not apply to condominiums created after the effective date of this Act and do not invalidate any amendment adopted after the effective date of this Act to the master deed, bylaws, or plats of any condominium created before the effective date of this Act, if the amendment would be permitted by this Act.

AND FURTHER AMEND by deleting SECTION 1, § 66-27-303(b), and by substituting instead the following:

(b) The rule against perpetuities may not be applied to defeat any provision of the declaration, or the bylaws, rules, or regulations adopted pursuant to § 66-27-402(a)(1).

AND FURTHER AMEND by deleting SECTION 1, § 66-27-305(a)(3), and by substituting instead the following:

(3) A legally sufficient description of the real estate included in the condominium, including a recital pursuant to § 66-24-110;

AND FURTHER AMEND by deleting SECTION 1, § 66-27-309(b)(1) and by substituting instead the following:

(1) The name and a survey or general schematic map of the entire condominium;

AND FURTHER AMEND by deleting SECTION 1, § 66-27-309(g), and by substituting

instead the following:

(g) Any certification of a plat or plan required by this section must be made and signed in original by an independent, registered surveyor, architect, or engineer, or combination thereof.

AND FURTHER AMEND by inserting the following sentence immediately preceding the final sentence of SECTION 1, § 66-27-315:

Any rights reserved to the declarant under this section may be exercised by an agent of the declarant.

AND FURTHER AMEND by deleting the word "number" from the final sentence of SECTION 1, § 66-27-317(a), and by substituting instead the word "percentage".

AND FURTHER AMEND by deleting the second sentence of SECTION 1, § 66-27-318(h)(1), and by substituting instead the following:

The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved within thirty (30) days after distribution by unit owners of units to which at least twenty-five percent (25%) of the votes in the association are allocated.

AND FURTHER AMEND by deleting from the first sentence of SECTION 1, § 66-27-405, the language "prior to the first conveyance of a unit to a party other than the developer," and by substituting instead the following:

prior to the first conveyance of a unit to a party other than the declarant,

AND FURTHER AMEND by deleting SECTION 1, § 66-27-413(d)(2) and (3) by substituting instead the following:

2) The insurer waives its right to subrogation under the policy against any unit owner, lessee, or member of the owner's or lessee's household, unless it can be shown that the act with intent to cause the loss of such unit owner, lessee, or member of the owner's or lessee's household was the cause of the loss;

(3) No act or omission by any unit owner, unless acting in the capacity of a governing board member of the association, will void the policy or be a condition to recovery under the policy; and

AND FURTHER AMEND by deleting the second sentence of SECTION 1, § 66-27-413(g) and by substituting instead the following:

The insurer issuing the policy may not cancel or refuse to renew it until after notice of the proposed cancellation or non-renewal has been mailed to the association and to each and any additional insured under the policy at their respective last known addresses, in accordance with the provisions of the "Cancellation of Commercial Risk Insurance Act," § 56-7-1801, et seq. or, if the policy is a policy of "personal risk insurance" as defined in § 56-5-302, then in accordance with the provisions of law governing such insurance.

AND FURTHER AMEND by deleting the final two (2) sentences of SECTION 1, § 66-27-415(b)(2), and by substituting instead the following:

Provided however, such lien shall not have the priority provided for in the immediately preceding sentence over the mortgages and deeds of trust described in subdivision (b)(1)(B) above in the event that the owner of such unit or the holder of any first mortgage or deed of trust on such unit has notified the association in writing of the holder's name and address and the identity of the unit upon which it holds a first mortgage or deed of trust, and the association has failed, within thirty (30) days of the date six (6) months of assessments for common expenses due from such unit became delinquent, to give written notice of such delinquency to the holder of such first mortgage or deed of trust at the address provided by such party. This subsection does not affect the priority of mechanics' or materialmen's liens. The lien under this section is not subject to the statutory or other right of redemption, homestead, or any other exemption,

unless specifically reserved in the declaration.

AND FURTHER AMEND by deleting SECTION 1, § 66-27-415(h), and by substituting instead the following:

(h) The association upon written request shall furnish to a unit owner, or to a holder of any mortgage or deed of trust encumbering such unit, or their respective authorized agents, a written statement setting forth the amount of unpaid assessments against his or her unit. The statement must be furnished within seven (7) days after receipt of the request and is binding on the association.

AND FURTHER AMEND by deleting the first sentence of SECTION 1, § 66-27-502(a), and by substituting instead the following:

The association, upon request from a unit owner, a purchaser, or any lender to either of the foregoing, or their respective authorized agents, shall provide to the requesting party, within ten (10) business days following the date of the association's receipt of such request, the information specified in § 66-27-503, to the extent applicable.

AND FURTHER AMEND by deleting the first sentence of SECTION 1, § 66-27-505(a), and by substituting instead the following:

If the association or declarant, as applicable, fails to provide the information required by § 66-27-503 hereof within the time herein provided, then the association or declarant, as applicable, shall be liable for and shall pay a fine or penalty of two hundred fifty dollars (\$250) to the party on whose behalf the request is made, following the first request therefor, and a fine or penalty of five hundred dollars (\$500) if not supplied within ten (10) business days following the second request therefor, plus all costs, including without limitation reasonable attorneys fees incurred in obtaining such information or enforcing the fines and/or

penalties herein provided for.

AND FURTHER AMEND by deleting SECTION 1, § 66-27-506, and by substituting instead the following:

§ 66-27-506. Escrow of Deposits. Any deposit made in connection with the purchase or reservation of a unit from a declarant shall be placed in escrow and held in this state in an account designated solely for that purpose by a licensed title insurance company or agent thereof, an attorney, a licensed real estate broker, or an independent bonded escrow company, and shall be deposited in an institution whose accounts are insured by a governmental agency or instrumentality, or any other lawful escrow or trust account, until:

- (1) Delivered to the declarant at closing;
- (2) Delivered to the declarant because of purchaser's default under a contract to purchase the unit;
- (3) Refunded to the purchaser;
- (4) Interpleaded into a court of appropriate jurisdiction; or
- (5) Disbursed pursuant to a final order of a court of appropriate jurisdiction.

AND FURTHER AMEND by deleting the first sentence of SECTION 1, § 66-27-507(a), and by substituting instead the following:

A declarant of a condominium containing conversion buildings, who offers units in such condominium, shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion building notice of the conversion no later than sixty (60) days before the tenants and any subtenant in possession are required to vacate.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 66-5-210, is amended by adding the following paragraph immediately after the signature elements to the "Certification" contained in paragraph D thereof:

If the property being purchased is a condominium, the Transferee/Buyer is hereby given notice that he or she is entitled, upon request, to receive certain information regarding the administration of the condominium from the developer or the condominium association, as applicable, pursuant to Tennessee Code Annotated § 66-27-502.